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SCOTTISH STATUTORY INSTRUMENTS

2014 No. 312

FOOD

The Food Information (Scotland) Regulations 2014

Made - - - - 12th November 2014

Laid before the Scottish Parliament - - - - 14th November 2014

Coming into force in accordance with regulation 1(2) to (4)

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 6(4), 16(1), 17, 18, 26, 45 and 48(1) of, and paragraphs 1 and 4(b) of Schedule 1 to, the Food Safety Act 1990(1), section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(2) and all other powers enabling them to do so.


The functions conferred on the Minister of the Crown under section 2(2) of the 1972 Act are exercised as regards the whole or part of regulations 3 to 8 of this instrument. The functions conferred on the Minister of the Crown under section 2(2) of the 1972 Act, so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998. In so far as not transferred, those functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849).

(1) 1990 c.16. Section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990. Section 6(4) was amended by paragraph 6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c.40), paragraph 10(3) of Schedule 5 to the Food Standards Act 1999 (c.28) (“the 1999 Act”), and Schedule 2 to the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794). Sections 16(1)(c) and (f) were amended by paragraph 8 of Schedule 5 to the 1999 Act. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the 1999 Act. Section 17(2) was amended by section 40(1) of and paragraphs 7, 8 and 12 of Schedule 5 to the 1999 Act and S.I. 2011/1047. Section 26(3) was amended by, and partially repealed by, paragraph 1 of Schedule 6 to the 1999 Act. Section 48 was also amended by S.I. 2004/2990. Section 48(1) was amended by paragraphs 7 and 8 of Schedule 5 to the 1999 Act. Section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (c.40). Schedule 6 to the 1999 Act, S.I. 2004/2990 and S.I. 2004/3279. Amendments made by Schedule 5 to the 1999 Act which extend to Scotland shall be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c.46) by virtue of section 49(2) of the 1999 Act. The functions of the Secretary of State, so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998. In so far as not transferred, those functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849).

(2) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c.46) (“the 1998 Act”), section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act. The powers in section 2(2) of the 1972 Act are exercised as regards the whole or part of regulations 3 to 8 of this instrument. The functions conferred on the Minister of the Crown under section 2(2) of the 1972 Act, so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(3) OJ L 304, 22.11.2011, p.18.

So far as the following Regulations are made in exercise of powers under the Food Safety Act 1990, the Scottish Ministers have had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A)(4) of that Act.

As required by Article 9 of Regulation (EC) No 178/2002(5) of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, there has been open and transparent public consultation during the preparation and evaluation of the following Regulations.

Citation, extent and commencement

1.—(1) These Regulations may be cited as the Food Information (Scotland) Regulations 2014 and extend to Scotland only.

(2) Except as provided for in paragraphs (3) and (4), these Regulations come into force on 13th December 2014.

(3) The specified FIC provisions in Part 2 of Schedule 3 come into force on 13th December 2016.

(4) Part 2 of Schedule 4, and regulation 13 so far as it relates to that Part of Schedule 4, come into force on 13th December 2018.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Food Safety Act 1990;

“final consumer” has the meaning given in point 18 of Article 3 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety;


“food authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(6);

“food business operator” has the meaning given in point 3 of Article 3 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety;

“mass caterer” has the meaning given in Article 2(2)(d) and “mass caterers” must be construed accordingly;

(4) Section 48(4A) was inserted by paragraphs 7 and 21 of Schedule 5 to the Food Standards Act 1999.
(6) 1994 c.39. Section 2 was amended by the Environment Act 1995 (c. 25), Schedule 22, paragraph 232(1).
“means of distance communication” has the meaning given in Article 2(2)(u);
“prepacked for direct sale” has the same meaning as in Article 2(2)(e);
“prepacked food” has the meaning given in Article 2(2)(e); and
“specified FIC provision” means a provision specified in column 1, as read with column 2, of Schedule 3 to these Regulations.

(2) Except as otherwise provided for—
(a) any reference in these Regulations to an Article is a reference to an Article of FIC; and
(b) any reference in these Regulations to an Annex is a reference to an Annex to FIC.

(3) Any reference to FIC, or a provision of FIC (including a reference to an Article of, or Annex to, FIC to which paragraph (2) applies, in a regulation listed in paragraph (4) is a reference to FIC or that provision as amended from time to time.

(4) The provisions referred to in paragraph (3) are—
(a) regulation 2(1) (interpretation), except for the definition of “FIC”;
(b) regulation 3 (derogation relating to milk and milk products);
(c) regulation 4(1) and (3) (derogation relating to minced meat); regulation 5(1),(3),(5) and (6) (foods that are not prepacked etc, containing an allergenic substance or product etc.);
(d) regulation 6(1) (foods that are not prepacked etc. – general requirement to name them);
(e) regulation 7(1), (4) and (6) (insofar as this relates to “offered for sale”) (Products that are not prepacked etc. containing meat and other ingredients);
(f) regulation 8(4)(b) (irradiated foods);
(g) regulation 10 (offences);
(h) paragraph 3 of Part 2 of Schedule 1 (font size for national mark to be used in case of prepacked food); and
(i) Schedule 3 (specified FIC provisions).

Derogation relating to milk and milk products

3. The requirements laid down in Articles 9(1) and 10(1) do not apply to milk or milk products presented in a glass bottle where the glass bottle is intended for reuse.

Derogation relating to minced meat

4.—(1) The requirements laid down in point 1 of Part B of Annex VI do not prevent minced meat that does not comply with those requirements being placed on the market using the designation ‘minced meat’ if the national mark in Part 1 of Schedule 1 appears on the labelling.

(2) Part 2 of Schedule 1 applies to the form of the national mark.

(3) In paragraph (1)—
“on the labelling” has the same meaning as in point 2 of Part B of Annex VI as read with the definition of “labelling” in Article 2(2)(j); and
“placed on the market” is to be construed taking into account the meaning of “placing on their national market” as used in point 3 of Part B of Annex VI.
Foods that are not prepacked etc. containing an allergenic substance or product etc.

5.—(1) A food business operator who offers for sale a relevant food to which this regulation applies may provide the particulars specified in Article 9(1)(c) in relation to that food in any manner that they choose, including, subject to paragraph (3), orally.

(2) This regulation applies to a relevant food that is offered for sale to the final consumer or to a mass caterer otherwise than by means of distance communication and that is—

(a) not prepacked;
(b) packed on the operator’s premises at the consumer’s request; or
(c) prepacked for direct sale.

(3) Where a food business operator intends to provide the particulars specified in Article 9(1)(c) relating to a relevant food orally, they must indicate that details of the Annex II substance or product used as an ingredient or processing aid in the manufacture or preparation of the food, or derived from such a substance or product, can be obtained by asking a member of staff.

(4) The indication mentioned in paragraph (3) must be given—

(a) on a label attached to the food; or
(b) on a notice, menu, ticket or label that is readily discernible by an intending purchaser at the place where they choose that food.

(5) In relation to a relevant food to which this regulation applies, the Article 9(1)(c) particulars provided by a food business operator must be provided with a clear reference to the name of the substance or product listed in Annex II where—

(a) the relevant ingredient or processing aid is derived from a substance or product listed in Annex II; and
(b) the particulars are made available otherwise than by means provided in FIC.

(6) In this regulation “relevant food” means a food in which an ingredient or processing aid listed in Annex II, or derived from a substance or product listed in Annex II, has been used in its manufacture or preparation and that is still present in the finished product (even if in an altered form).

Foods that are not prepacked etc. – general requirement to name them

6.—(1) A food business operator who offers for sale a food to which this regulation applies at premises where sales are made to final consumers must provide the particulars required by Article 9(1)(a) (the name of the food) as read with—

(a) Article 17(1) to (4) and Part A of Annex VI; and
(b) in the case of food offered for sale using a minced meat designation as a name—
   (i) Article 17(5) and point 1 of Part B of Annex VI; and
   (ii) point 3 of Part B of Annex VI as read with regulation 4 and Schedule 1.

(2) This regulation applies to a food that is offered for sale to a final consumer or a mass caterer and is—

(a) not prepacked;
(b) packed on the operator’s premises at the consumer’s request; or
(c) prepacked for direct sale.

(3) This regulation does not apply to a food prepared to be ready for consumption by a final consumer that is offered for sale to a final consumer by a mass caterer (whether at a mass catering establishment where sales are made in person to a final consumer or by means of distance communication) as part of their business as a mass caterer.
(4) The particulars must appear—
   (a) on a label attached to the food; or
   (b) on a notice, ticket or label that is readily discernible by an intending purchaser at the place
       where they choose that food.

(5) In this regulation “offered for sale” has the same meaning as in Article 44 and “offers for
     sale” shall be construed accordingly.

(6) Paragraph (4) does not apply in the case of an offer for sale made by means of distance
     communication.

Products that are not prepacked etc. containing meat and other ingredients

7.—(1) A food business operator who offers for sale a product to which this regulation applies at
     premises where sales are made to final consumers must provide the particulars required by Article
     9(1)(d) (quantity of certain ingredients), as read with Article 22 and Annex VIII in respect of the
     ingredients in the product that are meat.

   (2) This regulation applies to a product (other than a food specified in Schedule 2) that contains
       meat and any other ingredients and that is—
       (a) not prepacked;
       (b) packed on the operator’s premises at the consumer’s request; or
       (c) prepacked for direct sale.

   (3) This regulation does not apply to a product that is offered for sale by a mass caterer at a mass
       catering establishment in the course of their business as a mass caterer.

   (4) The quantity of meat specified in the particulars mentioned in paragraph (1) must be
       determined taking into account the provisions relating to total fat and connective tissue content in
       point 17 of Part B of Annex VII, including any downward adjustment needed in a case where the total
       fat and connective tissue content in the product exceeds the values indicated in the table in that point.

   (5) The particulars must appear—
       (a) on a label attached to the product; or
       (b) on a notice, ticket or label that is readily discernible by an intending purchaser at the place
           where they choose that product.

   (6) In this regulation—
       “offered for sale” has the same meaning as in Article 44 and “offers for sale” shall be construed
       accordingly;
       “meat” means the skeletal muscles of mammalian and bird species recognised as fit for human
       consumption with naturally included or adherent tissue but does not include mechanically
       separated meat; and
       “mechanically separated meat” has the meaning given in point 1.14 of Annex I to Regulation
       hygiene rules for food of animal origin.

Irradiated foods

8.—(1) Any person who places on the market, in bulk, a product to which this paragraph applies
     must ensure that the relevant indication appears, together with the name of the product, on a display
     or notice above or beside the container in which the products are placed on the market.

(2) Paragraph (1) applies to—
   (a) a product intended for the ultimate consumer or mass caterers that has been treated with ionising radiation; and
   (b) a product intended for the ultimate consumer or mass caterers that contains an ingredient that has been treated with ionising radiation.

(3) Any person who places on the market a product to which this paragraph applies must ensure that the relevant indication appears in the list of ingredients of that product to indicate the irradiated ingredient.

(4) Paragraph (3) applies to a product intended for the ultimate consumer or mass caterers—
   (a) containing a compound ingredient in a case where an ingredient of that compound ingredient has been treated with ionising radiation; and
   (b) to which in relation to that compound ingredient the provisions of point 2 of Part E of Annex VII (setting out cases where a list of ingredients for compound ingredients is not compulsory) would, but for the requirement in paragraph (3), apply.

(5) The relevant indication is the word ‘irradiated’ or the words ‘treated with ionising radiation’.

(6) In this regulation—
   “in bulk” has the same meaning as in Article 6 of Directive 1999/2/EC of the European Parliament and of the Council on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation;
   “ionising radiation” has the same meaning as in Directive 1999/2/EC of the European Parliament and of the Council;
   “places on the market” is to be construed taking into account the meaning of “placed on the market” as used in Article 2 of Directive 1992/2/EC; and

(7) This regulation does not apply to—
   (a) a product exposed to ionising radiation generated by measuring or inspection devices, provided the dose absorbed is not greater than 0.01 Gy for inspection devices which utilise neutrons and 0.5 Gy in other cases, at a maximum radiation energy level of 10 MeV in the case of X-rays, 14 MeV in the case of neutrons and 5 MeV in other cases; and
   (b) a product which is prepared for patients requiring sterile diets under medical supervision.

Enforcement

9. It is the duty of each food authority to enforce these Regulations within its area.

Offences

10. A person is guilty of an offence if the person fails to comply with—
   (a) any specified FIC provision;
   (b) regulation 5(3), (4) or (5);
   (c) regulation 6(1) as read with 6(4);
   (d) regulation 7(1) as read with 7(5); or
   (e) regulation 8(1) or (3).

Penalty

11. A person guilty of an offence under regulation 10 is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Application of provisions of the Act

12.—(1) The following provisions of the Act apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part of the Act is to be construed as a reference to these Regulations—

(a) section 3 (presumptions that food intended for human consumption);
(b) section 30(8) (which relates to documentary evidence);
(c) section 33 (obstruction etc. of officers);
(d) section 35(1) (punishment of offences) insofar as it relates to offences under section 33(1) and section 35(2) and (3) insofar as they relate to offences under section 33(2), all as applied by paragraph (c);
(e) section 36 (offences by bodies corporate);
(f) section 36A (offences by Scottish partnerships) and
(g) section 44 (protection of officers acting in good faith).

(2) The following provisions of the Act apply for the purposes of these Regulations with the modifications specified—

(a) section 20 (offences due to fault of another person) for “any of the preceding provisions of this Part” substitute “regulation 10 of the Food Information (Scotland) Regulations 2014”;
(b) section 21 (defence of due diligence)—

(i) in subsection (1) for “any of the preceding provisions of this Part” substitute “regulation 10 of the Food Information (Scotland) Regulations 2014; and
(ii) subsections (2) to (4) apply in relation to an offence under regulation 10 as they apply in relation to an offence under section 14 or 15;
(c) section 22 (defence of publication in the course of business) for “any of the preceding provisions of this Part” substitute “regulation 10 of the Food Information (Scotland) Regulations 2014”.

(3) In section 32 (powers of entry) the modifications in sub-paragraphs (a) and (b) below apply for the purposes in sub-paragraph (c)—

(a) in section 32(1)(a) for “this Act, or of regulations or orders made under it” substitute “Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision to consumers specified in Schedule 3 to the Food Information (Scotland) Regulations 2014”;
(b) omit section 32(1)(c);
(c) the purposes are enabling an authorised officer of a food authority—

(i) to exercise a power of entry to ascertain whether there is, or has been, any contravention of a specified FIC provision;
(ii) to exercise a power of entry to ascertain whether there is any evidence of any contravention of such a provision; and

(9) Section 35(1) is amended by the Criminal Justice Act 2003 (c.44), Schedule 26, paragraph 42, from a date to be appointed.
(10) Section 35(3) was amended by S.I. 2004/3279.
(11) Section 36A was inserted by paragraphs 7 and 16 of Schedule 5 to the Food Standards Act 1999 (c.28).
(12) Section 21 was amended by S.I. 2004/3279.
(iii) where exercising a power of entry under the applied section 32 provisions, to exercise the associated powers in subsections (5) and (6) relating to records;
(d) this paragraph is without prejudice to the application of the provisions of the Act for purposes other than those specified; and
(e) the purposes in (c) do not include any powers of entry relating to a contravention of Article 9(1)(e) of FIC.

Revocations

13. The Regulations specified in Schedule 4 are revoked to the extent specified.

Consequential and other amendments

14. Schedule 5 has effect.

St Andrew’s House,
Edinburgh
12th November 2014

MICHAEL MATHESON
Authorised to sign by the Scottish Ministers
SCHEDULE 1  

Mark to be used on minced meat to which the derogation in regulation 4 applies

PART 1  
The national mark

For UK market only

PART 2  
Specifications for the national mark

1. Any type of font may be used for the national mark so long as it is clearly legible.
2. Any colour font may be used for the national mark so long as it is easily visible.
3. In the case of prepacked food, the font size used for the national mark must not be smaller than—
   (a) in the case of packages and containers of a size to which Article 13(3) of FIC applies, the font size required for mandatory particulars under Article 13(3) of FIC; and
   (b) in the case of other packages and containers, the font size required for mandatory particulars under Article 13(2) of FIC.

SCHEDULE 2  

Foods that are not products to which regulation 7(1) applies

1. Raw meat to which no ingredient other than proteolytic enzymes has been added.
2. Frozen and quick-frozen chicken to which Article 15 of Commission Regulation (EC) No 543/2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat applies and the water content of which does not exceed the technically unavoidable values determined as provided for in that Article.
3. Fresh, frozen and quick-frozen poultry cuts to which Article 20 of Commission Regulation (EC) No 543/2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat applies and the water content of which does not exceed the technically unavoidable values determined as provided for in that Article.
4. Sandwiches, filled rolls and filled products of a similar nature to sandwiches and filled rolls, which are ready for consumption without further processing, except for products containing meat which are sold under the name (whether or not qualified by other words) “burger”, “economy burger” or “hamburger”.
5. Pizzas and similar topped products.
6. Any food for which the name is “broth”, “gravy” or “soup”, whether or not qualified by other words.

7. A food consisting of an assemblage of two or more ingredients that has not been subjected to any processing or treatment once it has been assembled, and which is sold to the final consumer as an individual portion intended to be consumed without further processing or treatment.

SCHEDULE 3

Specified FIC provisions

PART 1

Specified FIC provisions applying on and from 13th December 2014

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<td>Articles 1(3), 6, 9 and 14(3) and the first paragraph of Article 54(1)</td>
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<td>available before conclusion of a purchase and mandatory particulars available at the moment of delivery</td>
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<td>Article 17(1) Articles 1(3), 6 and 9(1) and the first paragraph of Article 54(1) and regulation 4 and Schedule 1</td>
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<td>Article 17(3) Articles 1(3), 6, 9(1) and 17(1) and (2) and the first paragraph of Article 54(1) (prohibition in certain exceptional cases of the use of a name used for a food in a member State of production when marketing that food in another member State)</td>
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<td>Article 17(4) Articles 1(3) and 6 and the first paragraph of Article 54(1) (prohibition against replacing the name of a food with another name)</td>
<td>Article 17(5), Articles 1(3) and 6 and the first paragraph of Article 54(1) and Annex VI except so far as it applies</td>
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Relevant provision of FIC | Provisions to be read with the provisions of FIC
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| to the specific requirements in Part B of Annex VI concerning the designation “minced meat” (requirements on the name of a food and particulars that must accompany it)
| Articles 1(3), 6, 18(4), 19(1) and 20, the first paragraph of Article 54(1), Annex VII, regulation (8) and the first paragraph of paragraph 5 of Article 3 of Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption (14)
| Articles 1(3), 6, 17, 18(4) and 19(1), the first paragraph of Article 54(1) and Annexes VI and VII
| Articles 1(3) and 6 and the first paragraph of Article 54(1)
| Articles 1(3), 6, 9(1)(c) and 18(1), the first paragraph of Article 54(1), Annex II and, in the case of foods that are not prepacked etc. containing an allergenic substance or product etc., regulation 5
| Articles 1(3), 6 and 22(2), the first paragraph of Article 54(1) and Annex VIII
| Articles 1(3), 6 and 22(1), the first paragraph of Article 54(1) and Annex VIII

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<td>Article 25(1)</td>
<td>Articles 1(3) and 6 and the first paragraph of Article 54(1) (requirement for special storage conditions or conditions for use, or both, to be indicated on food)</td>
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<td>Article 25(2)</td>
<td>Articles 1(3) and 6 and the first paragraph of Article 54(1) (requirement to indicate appropriate storage conditions or time within which food should be consumed after the packaging containing the food is opened or both)</td>
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<tr>
<td>Article 26(2)(a)</td>
<td>Articles 1(3) and 6, the first paragraph of Article 54(1) and Annex XI (requirement for a mandatory indication relating to country of origin or place of provenance in certain cases, where failure to might mislead consumer)</td>
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<td>beverages containing more than 1.2% volume of alcohol</td>
<td>Article 30(1) Articles 1(3), 6, 29, 31(1) (as read with Annex XIV) and 31(3), the first paragraph of Article 31(4), Articles 32(1) (as read with Annex XV), 32(2), 33(1) and 35(1) and the first paragraph of Article 54(1)</td>
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<td>(content of mandatory nutrition declaration)</td>
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<td>Articles 1(3), 6, 30(3)(b), 32(2), the first paragraph of Article 33(2) and the first subparagraph of Article 54(1)</td>
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<td>Article 33(2), second subparagraph (requirement for energy value to be expressed both per 100 grams or per 100 millilitres and per portion or consumption unit where information on energy, fat, saturates, sugars and salt is repeated voluntarily in the principal field of vision, and the amounts of the nutrients are</td>
<td>Articles 1(3), 6, 30(3)(b), 32(2), the first paragraph of Article 33(2) and the first subparagraph of Article 54(1)</td>
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<td>expressed on a per portion or per consumption unit basis only)</td>
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<td>Article 34(1) Articles 1(3), 6 and 30(1) and (2), the first paragraph of Article 54(1) and the first paragraph of Article 54(1) (presentation of mandatory nutrition declaration and any supplementary information provided in accordance with Article 30(1) and (2) – field of vision, format and order of presentation)</td>
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### Relevant provision of FIC

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Relevant provision of FIC | Provisions to be read with the provisions of FIC
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provisions relating to content, calculation, expression and presentation when nutrition information is provided on a voluntary basis during the period on and from 13th December 2014 to and including 12th December 2016)

PART 2
Specified FIC provision applying on and from 13th December 2016

Relevant provision of FIC | Provisions to be read with the provision of FIC
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Article 9(1)(l) (mandatory nutrition declaration) | Articles 1(3), 6, 9(2), 11 and 16, section 3 of Chapter IV, Article 40 and the second subparagraph of Article 54(1), the second sub-paragraph of Article 55, Annex V and regulation 3

SCHEDULE 4
Regulations 1(2) and (4) and 13

Revocations

PART 1
Revocations coming into force on 13th December 2014

Reference | Extent of revocation
--- | ---
The Food Labelling Regulations 1996(15) | The whole Regulations except for the purposes of the following provisions in those Regulations—
(a) Regulation 43;
(b) Regulation 42(1) for the purposes of the entries in Part I of Schedule 8 relating to the descriptions “alcohol-free”,

“dealcoholised”, “low alcohol” (or any other word or description which implies that the drink being described is low in alcohol) and “non-alcoholic”; and

(c) Regulation 42(2) to (4);
(d) the entries in Part I of Schedule 8 relating to the descriptions “alcohol-free”, “dealcoholised”, “low alcohol” (or any other word or description which implies that the drink being described is low in alcohol) and “non-alcoholic”; and
(e) Parts II and III of Schedule 8.

The Bread and Flour Regulations 1998(16) Regulations 5(3) and 11.

The Food Labelling (Amendment) Regulations 1998(17) The whole Regulations except for regulations 2 and 11.

The Food Labelling (Amendment) Regulations 1999(18) The whole Regulations except for regulations 2 and 11.

The Miscellaneous Food Additives (Amendment) Regulations 1999(19) In regulation 14(1), the words “the Food Labelling Regulations 1996”, and the whole of regulation 14(3).

The Food Labelling (Amendment) (No. 2) Regulations 1999(20) The whole Regulations.

The Contaminants in Food (Amendment) Regulations 1999(21) The whole Regulations.

The Food Irradiation Provisions (Scotland) Regulations 2000(22) The whole Regulations.

The Coffee Extracts and Chicory Extracts Regulations 2001(23) Regulation 11(1) and (2)(g).

The Food Labelling (Amendment) (Scotland) Regulations 2003(24) The whole Regulations.

The Specified Sugar Products (Scotland) Regulations 2003(25) Regulation 11(h).

The Cocoa and Chocolate Products (Scotland) Regulations 2003(26) Regulation 12(h).

(16) S.I. 1998/141, to which there are amendments not relevant to these Regulations.
(17) S.I. 1998/1398.
(18) S.I. 1999/747.
(19) S.I. 1999/1136, to which there are amendments not relevant to these Regulations.
(20) S.I. 1999/1483.
(21) S.I. 1999/1603.
(23) S.S.I. 2001/38, to which there are amendments not relevant to these Regulations.
(24) S.S.I. 2003/578.
(25) S.S.I. 2003/527, to which there are amendments not relevant to these Regulations.
<table>
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<tr>
<th>Reference</th>
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<tbody>
<tr>
<td>The Food Labelling Amendment (Scotland) Regulations 2003(27)</td>
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<td>The Food Labelling Amendment (Scotland) Regulations 2004(28)</td>
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<tr>
<td>The Food Labelling Amendment (Scotland) Regulations (No. 2) 2004(29)</td>
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<tr>
<td>The Food with Added Phytosterols or Phytostanols (Labelling) (Scotland) Regulations 2005(30)</td>
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<td>The Food Labelling Amendment (Scotland) Regulations 2005(31)</td>
<td>The whole Regulations.</td>
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<tr>
<td>The Food Hygiene (Scotland) Regulations In Schedule 7, paragraphs 12 to 18 2006(32)</td>
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<tr>
<td>The Nutrition and Health Claims (Scotland) Regulation 8. Regulations 2007(33)</td>
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<tr>
<td>The Food Labelling (Declaration of Allergens) (Scotland) Regulations 2008(34)</td>
<td>The whole Regulations.</td>
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<td>The Food Labelling (Nutrition Information) (Scotland) Regulations 2009(36)</td>
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<td>The Eggs and Chicks (Scotland) Amendment Regulation 19. Regulations 2010(39)</td>
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<tr>
<td>The Food Labelling (Declaration of Allergens) (Scotland) Regulations 2011(40)</td>
<td>The whole Regulations.</td>
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<tr>
<td>The Materials and Articles in Contact with Food (Scotland) Regulations 2012(41)</td>
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(27) S.S.I. 2003/578.  
(28) S.S.I. 2004/269.  
(30) S.S.I. 2005/1.  
(31) S.S.I. 2005/222.  
(32) S.S.I. 2006/3 to which there are amendments not relevant to these Regulations.  
(33) S.S.I. 2007/383 to which there are amendments not relevant to this revocation.  
(35) S.S.I. 2011/84, to which there are amendments not relevant to this revocation.  
(36) S.S.I. 2009/328.  
(37) S.S.I. 2009/435, amended by S.S.I. 2013/266; there are other amending instruments but none are relevant.  
(38) S.S.I. 2010/439.  
(39) S.S.I. 2010/450.  
(40) S.S.I. 2011/152.  
(41) S.S.I. 2012/318.
PART 2
Revocations coming into force on 13th December 2018

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<td>The Food Additives, Flavourings, Enzymes and Extraction Solvents (Scotland) Regulations 2013(42)</td>
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<td>The Single Common Market Organisation (Consequential Amendments) Regulations 2013(43)</td>
<td>Regulation 6(2)(b), (c), (f), (h) and (i), (3), (5) and (6).</td>
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<td>The Food Labelling (Amendment) Regulations 1998</td>
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<td>The Wine Regulations 2011(44)</td>
<td>Regulation 19(3).</td>
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<td>The Single Common Market Organisation (Consequential Amendments) Regulations 2013</td>
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SCHEDULE 5

Consequential and other amendments

Consequential and other amendments that have effect on 13th December 2014

The Quick-frozen Foodstuffs Regulations 1990

1. The Quick-frozen Foodstuffs Regulations 1990(45) are amended as follows—
   (a) in regulation 2(1)—
      (i) omit the definition of “catering establishment”;
      (ii) insert the following definition in its alphabetical place—
           “mass caterer” has the meaning given by Article 2(2)(d) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers;”;
      (iii) in the definition of “prepackaging”, for “the Food Labelling Regulations 1996”, substitute “Article 2(2)(e) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers”; and

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(42) S.S.I. 2013/266.
(43) S.I. 2013/3235
(44) S.I. 2011/2936.
(iv) substitute the definition of “ultimate consumer” with the following definition—

“ultimate consumer” has the same meaning as “final consumer” in point 18 of Article 3 of Regulation (EC) No 178/2002.”; and

(b) in regulation 5(2) and (4), and in paragraph 2(d) of Schedule 1, for “catering establishment”, substitute “mass caterer”.

The Food Labelling Regulations 1996

2. The Food Labelling Regulations 1996(46) are amended as follows—

(a) In Schedule 8 (misleading descriptions), Part I—

(i) in column 2 of the entry relating to the description “alcohol-free”, for subparagraph (b) substitute—

“(b) the drink is marked or labelled with—

(i) an indication of its maximum alcoholic strength in a form comprising of the words “not more than” followed by a figure to more than one decimal place indicating its maximum alcoholic strength and the symbol “% vol.” (required form 1), “alcohol % vol.” (required form 2), or “alc. % vol.” (required form 3), or

(ii) in an appropriate case an indication that it contains no alcohol.”;

(ii) in column 2 of the entry relating to the description “dealcoholised”, for subparagraph (b) substitute—

“(b) the drink is marked or labelled with—

(i) an indication of its maximum alcoholic strength in required form 1, 2 or 3; or

(ii) in an appropriate case, an indication that it contains no alcohol.”;

(iii) in column 2 of the entry relating to the description “low alcohol” (or any other word or description which implies that the drink being described is low in alcohol), for subparagraph (b) substitute—

“(b) an indication of its maximum alcoholic strength in required form 1, 2 or 3.”.

The Food (Lot Marking) Regulations 1996

3. The Food (Lot Marking) Regulations 1996(47) are amended, as follows—

(a) in regulation 2—

(i) omit the definition of “edible ice”;


(46) S.I 1996/1499, as amended by 2011/2936 and to which there are other amendments not relevant to these amendments.

(47) S.I. 1996/1502.


(iii) omit the definition of “the Food Labelling Regulations” and the words “and
“indication of minimum durability”, “use by date” and “ultimate consumer” have
the same meanings as in those Regulations;” following that definition;
(iv) omit the definition of “prepacked” and the words “and “prepacking” shall be
construed accordingly;” following that definition;
(v) insert the following definitions in their alphabetical
place—
““date of minimum durability” has the meaning given in Article 2(2)(r) of
Regulation (EU) No 1169/2011;”;
““ice cream” has the same meaning as in Directive 2011/91/EU of the
European Parliament and of the Council on indications or marks identifying
the lot to which a foodstuff belongs;”;
““prepacked food” has the meaning given in Article 2(2)(e) of Regulation (EU)
No 1169/2011 and “prepacking” must be construed accordingly;”;
of the European Parliament and of the Council on the provision of food
information to consumers, amending Regulations (EC) No 1924/2006 and
(Dec) No 1925/2006 of the European Parliament and of the Council, and
““ultimate consumer” has the same meaning as “final consumer” in point 18 of
Article 3 of Regulation (EC) No 178/2002 of the European Parliament and of
the Council laying down the general principles and requirements of food law,
establishing the European Food Safety Authority and laying down procedures
in matters of food safety; and”;
““use by date” has the same meaning as in Regulation (EU) No 1169/2011.”;
and
(vi) in the definition of “prepacked for immediate sale”, for “the Food Labelling
Regulations”, substitute “Regulation (EU) No 1169/2011”;
(b) in regulation 4(e) for “edible ice”, substitute “ice cream”; and
(c) in regulation 4(g)—
(i) for “an indication of minimum durability”, substitute “the date of minimum
durability”; and
(ii) for “the Food Labelling Regulations require”, substitute “Regulation (EU) No
1169/2011 requires”.

The Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations
1997

4. In regulation 3(b) of the Foods Intended for Use in Energy Restricted Diets for Weight
Reduction Regulations 1997(50), for “Tables A and B of Part II of Schedule 6 to the Food Labelling
of the European Parliament and of the Council on the provision of food information to consumers”.

(50) S.I. 1997/2182, to which there are amendments not relevant to these Regulations.
The Bread and Flour Regulations 1998

5. The Bread and Flour Regulations 1998(51) are amended as follows—

(a) in regulation 2(1)—

(i) in the definition of “ingredient”, for “the Food Labelling Regulations 1996”, substitute “Article 2(2)(f) of Regulation (EU) No 1169/2011”;

(ii) in the definition of “labelling”, for “the Food Labelling Regulations 1996”, substitute “Article 2(2)(j) of Regulation (EU) No 1169/2011”;

(iii) omit the definition of “the labelling regulations”; and

(iv) insert the following definition in its alphabetical place—


(b) omit regulation 5(3).

The Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001

6. The Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001(52) are amended as follows—

(a) in regulation 2(1)—

(i) omit the definition of “the 1996 Regulations”; and

(ii) insert the following definition in its alphabetical place—


(b) in regulation 5(1)—

(i) in the introductory wording, for “the 1996 Regulations”, substitute “Regulation (EU) No 1169/2011”;

(ii) in subparagraph (a), for “regulation 6(1) of the 1996 Regulations”, substitute “Article 17 of Regulation (EU) No 1169/2011”; and

(iii) in subparagraph (c), for “the 1996 Regulations”, substitute “Article 17 of Regulation (EU) No 1169/2011”; and

(c) omit regulation 6.

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(51) S.I. 1998/141, to which there are amendments not relevant to these Regulations.
(52) S.S.I. 2001/38, to which there are amendments not relevant to these Regulations.
The Food Supplements (Scotland) Regulations 2003

7. The Food Supplements (Scotland) Regulations 2003(53) are amended as follows—

(a) in regulation 2(1)—

(i) omit the definition of “Directive 90/496”; and

(ii) insert the following definition in its alphabetical place—


(b) regulation 6 is amended as follows—

(i) in paragraph (2) for “the Food Labelling Regulations 1996” substitute “Regulation (EU) No 1169/2011”; and

(ii) in paragraph 3(e) for “the Annex to Directive 90/496” substitute “point 1 of Part A of Annex XIII to Regulation (EU) No 1169/2011 and for “relevant recommended daily allowance specified in that Annex” substitute “relevant reference value specified in that point”; and

(c) in regulation 7(1), for “regulation 5(a), (c) and (e) of the Food Labelling Regulations 1996”, substitute “Article 9(1)(a), (f), (g) and (h) of Regulation (EU) No 1169/2011”.

The Specified Sugar Products (Scotland) Regulations 2003

8. The Specified Sugar Products (Scotland) Regulations 2003(54) are amended as follows—

(a) in regulation 2, omit the definition of “the 1996 Regulations”; and

(b) in regulation 5, for “Part II of the 1996 Regulations”, substitute “Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers”; and

(c) omit regulation 6; and

(d) in Schedule 2, omit the entry relating to the Food Labelling Regulations 1996.

The Cocoa and Chocolate Products (Scotland) Regulations 2003

9. The Cocoa and Chocolate Products (Scotland) Regulations 2003(55) are amended as follows—

(a) in regulation 2(1)—

(i) omit the definition of “the 1996 Regulations”; and

(ii) insert the following definition in its alphabetical place—


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(53) S.S.I. 2003/278, amended by S.S.I. 2009/438 and to which there are other amendments not relevant to these Regulations.
(54) S.S.I. 2003/527, to which there are other amendments not relevant to these Regulations.

(b) in regulation 5—
   (i) at the end of paragraph (b), omit “or”;
   (ii) for the full stop at the end of paragraph (c), substitute “; or”; and
   (iii) after paragraph (c), insert—
      “(d) the use of such description, derivative or word to designate the food is in accordance with the customs applicable in the United Kingdom and the food cannot be confused with a product listed in column 1 of Schedule 1.”;

(c) in regulation 6—
   (i) in paragraph (1), for “Part II of the 1996 Regulations”, substitute “Regulation (EU) No 1169/2011”; and
   (ii) in paragraph (2)(b) for “the 1996 Regulations”, substitute “Article 9(1)(b) of Regulation (EU) No 1169/2011”; and

(d) in regulation 7—
   (i) omit paragraph (1); and
   (ii) in paragraph (2)(a), for “the 1996 Regulations”, substitute “Article 9(1)(b) of Regulation (EU) No 1169/2011”.

The Honey (Scotland) Regulations 2003

10. The Honey (Scotland) Regulations 2003(56) are amended as follows—
   (a) in regulation 5(1), for “Part II of the 1996 Regulations” substitute “Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers”; and
   (b) omit regulation 7.

The Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Scotland) Regulations 2004


The Food Hygiene (Scotland) Regulations 2006

12. The definition of “shelf life” in paragraph 4 of Schedule 4 to the Food Hygiene (Scotland) Regulations 2006(58) is amended as follows—
   (a) in subparagraph (a), for “regulation 20 of the Food Labelling Regulations 1996 (form of indication of minimum durability)”, substitute “Article 9(1)(f) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers”.

(56) S.S.I. 2003/569, to which there are amendments not relevant to these Regulations.
(57) S.S.I. 2004/8, to which there are amendments not relevant to these Regulations.
(58) S.S.I. 2006/3, to which there are amendments not relevant to these Regulations.
information to consumers, as read with Article 24(1) and (2) of, and point 1 of Annex X to, that Regulation”; and
(b) in subparagraph (b), for “regulation 21 of the Food Labelling Regulations 1996 (form of indication of “use by” date)” substitute “Article 9(1)(f) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as read with Article 24(1) and (2) of, and point 2 of Annex X to, that Regulation”.

The Addition of Vitamins, Minerals and Other Substances (Scotland) Regulations 2007

13. In the Addition of Vitamins, Minerals and Other Substances (Scotland) Regulations 2007(59), in regulation 4(2), for subparagraph (e) substitute—


The Nutrition and Health Claims (Scotland) Regulations 2007


The Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007

15. Regulation 2 (1) (interpretation) of the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007(a) are amended as follows—

(a) for the definition of “advertisement” and “advertise” substitute—

““advertisement” means a representation in any form in connection with a trader or business in order to promote the supply of goods and “advertise” is to be construed accordingly;” and

(b) after the definition of “Regulation 115/2010” insert—

(59) S.S.I. 2007/325.

The Eggs and Chicks (Scotland) (No 2) Regulations 2008

16. The Eggs and Chicks (Scotland) (No 2) Regulations 2008(63) are amended as follows—

(a) in regulation 2(1)—

(i) omit the definition of “Directive 2000/13/EC”;

(ii) insert the following definition in its alphabetical place—


(b) in regulation 15(4) and 15A(4) for “Article 1(2) of Directive 2000/13/EC” substitute “Article 2(2)(d) of Regulation (EU) No 1169/2011”; and

(c) in Part 2 of Schedule 2—


(ii) in the second column of the entry relating to Article 6(3), for “Article 9(2) of Directive 2000/13/EC”, substitute “point 1(a) of Annex X to Regulation (EU) No 1169/2011”; and

(iii) in the second column of the entry relating to Article 13, for “Article 3(1)(5) of Directive 2000/13/EC”, substitute “Article 9(1)(f) of Regulation (EU) No 1169/2011”.

The Eggs and Chicks (Scotland) Amendment Regulations 2010

17. The Eggs and Chicks (Scotland) Amendment Regulations 2010(64) are amended as follows—

“In regulation 2 omit the words “and the 1996 Regulations” means the Food Labelling Regulations 1996”.

The Fruit Juices and Fruit Nectars (Scotland) Regulations 2013

18. In Regulation 15 (1) of the Fruit Juices and Fruit Nectars (Scotland) Regulations 2013(65) omit from “Regulation 35(1)” to “labelling of food)” and insert—

(64) S.S.I. 2010/450.
(65) S.S.I. 2013/305.

EXPLANATORY NOTE

(This note is not part of the Regulations)


Regulation 3 contains a derogation relating to milk or milk products presented in a glass bottle intended for reuse and regulation 4 and Schedule 1 contains a derogation relating to minced meat that does not comply with the requirements laid down in FIC.

Regulation 5 imposes a requirement for the name of the food to be provided for foods that are not prepacked. Regulation 6 regulates the way in which information relating to an allergenic substance or product in a non-prepacked food can be given.

Regulation 7 and Schedule 2 imposes a requirement for the quantity of certain ingredients to be provided in respect of meat ingredients.

Regulation 8 imposes a requirement for irradiation information to be provided when irradiated food products and food products containing an irradiated ingredient are sold in bulk and when irradiated ingredients are used in certain food products that are prepacked.

Regulation 9 imposes an obligation on food authorities to enforce the Regulations.

Regulation 10 makes it an offence to fail to comply with specified FIC provisions (as defined in regulation 2 and specified in Schedule 3) and certain other provisions. Regulation 11 provides for the penalty for offences.

Regulation 12 applies certain provisions of the Food Safety Act 1990 with modifications.

The Regulations revoke and replace the Food Labelling Regulations 1996 (“the 1996 Regulations”), as amended, with effect from 13th December 2014, so far as those Regulations apply to Scotland, except for the purposes of certain provisions of those Regulations (regulation 43, regulation 42(1) for the purposes of the entries in Part I of Schedule 8 relating to the descriptions “alcohol-free”, “dealkoholised”, “low alcohol” (or any other word or description which implies that the drink being described is low in alcohol) and “non-alcoholic”; regulation 42(2) to (4); the entries in Part I of
Schedule 8 relating to the descriptions “alcohol-free”, “dealcoholised”, “low alcohol” (or any other word or description which implies that the drink being described is low in alcohol) and “non-alcoholic”; and Parts II and III of Schedule 8), which are revoked with effect from 13th December 2018 (regulation 13 and Schedule 4). The Regulations revoke other relevant legislation.

The Regulations amend the 1996 Regulations, so far as those Regulations apply to Scotland, during the period before those Regulations are revoked (regulation 14 and Schedule 5). They make amendments to other legislation to take account of the repeal and replacement of the relevant EU legislation and the revocation of the 1996 Regulations. The Regulations also amend the Food (Lot Marking) Regulations 1996, in their application to Scotland, to take account of the repeal and replacement of Council Directive 89/396/EEC by Directive 2011/91/EU of the European Parliament and of the Council on indications or marks identifying the lot to which a foodstuff belongs (OJ L 334, 16.12.2011, p.1).

A full business and regulatory impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency in Scotland, 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ and online at www.legislation.gov.uk.